

Message Text

CONFIDENTIAL

PAGE 01 BONN 12633 01 OF 03 051846Z

53

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 SAJ-01 IO-10 /074 W
----- 087178

R 051830Z AUG 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 1933

INFO USMISSION USBERLIN

AMEMBASSY BERLIN

AMEMBASSY PARIS

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 03 BONN 12633

E.O. 11652: GDS

TAGS: PFOR, PGOV, GW, WB, US, FR, UK

SUBJECT: VOTING RIGHTS OF BERLIN BUNDESRAT MEMBERS

REF: USBER 1451

BEGIN SUMMARY: RESPONDING TO AN EARLIER REQUEST IN THE BONN GROUP FOR CLARIFICATION OF PRACTICES AND DISCUSSIONS IN THE BUNDESRAT WITH REGARD TO VOTING RIGHTS OF BERLINERS, THE FRG REP MADE A PRESENTATION ON THE SUBJECT AT JULY 31 BONN GROUP MEETING. HE STRESSED THAT PRESENT PROCEDURES ARE FULLY CONSISTENT WITH PAST PRACTICE AND THAT DISCUSSIONS NOW GOING ON WITHIN THE PRESIDUM OF THE BUNDESRAT ARE AIMED AT ESTABLISHING PROCEDURES WHICH WOULD HAVE THE EFFECT OF LIMITING RATHER THAN EXPANDING THE EXERCISE OF VOTING RIGHTS BY BERLINERS. SUBSEQUENTLY, THE FRG FONOFF RECEIVED A LOW-KEY INQUIRY FROM A SOVIET EMBASSY OFFICIAL ABOUT THE JULY 11 BUNDESRAT VOTE ON THE CSCE RESOLUTION (DISCUSSED REFTEL). FONOFF BELIEVES IT HAS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 12633 01 OF 03 051846Z

SATISFIED THE SOVIETS THAT THERE WERE NO UNUSUAL

PRACTICES INVOLVED. END SUMMARY.

1. FOLLOWING TRIPARTITE DISCUSSION THE PREVIOUS DAY, THE US REP AT THE JUNE 19 BONN GROUP MEETING INVITED THE ATTENTION OF THE FRG REP TO A DISCUSSION OF BERLIN VOTING RIGHTS PUBLISHED IN THE RECORD OF PROCEEDINGS OF THE BUNDESRAT FOR MAY 30 AND ASKED FOR A BRIEFING ON THE NATURE OF THE PROBLEM THAT WAS SCHEDULED FOR DISCUSSION IN THE BUNDESRAT PRESIDUM THE FOLLOWING DAY. THE BRITISH AND FRENCH REPS ASSOCIATED THEMSELVES WITH THE US REQUEST.

2. BY WAY OF BACKGROUND, AT THE MAY 30 BUNDESRAT SESSION (PAGE 126 OF MINUTES OF 420TH SESSION) AFTER THE PRESIDENT HAD ANNOUNCED PASSAGE OF A RESOLUTION (CONCERNING EXPANDING THE VOTING RIGHTS OF GERMANS RESIDING ABROAD), BERLIN SENATOR STOBBE OBJECTED THAT THE VOTES OF THE BERLINERS SHOULD HAVE BEEN COUNTED. STOBBE SAID THAT IN THE OPINION OF THE BERLIN SENAT, THE ALLIED RESERVATIONS ON BERLIN VOTING DID NOT APPLY BECAUSE THE RESOLUTION IN QUESTION WAS PROCEDURAL AND HAD NO MATERIAL EFFECT ON THE LEGISLATION THAT WAS BEING VOTED ON. STOBBE CITED TWO PRECEDENTS: BERLINERS HAD VOTED ON MAY 19, 1972, ON TWO RESOLUTIONS HAVING TO DO WITH THE MOSCOW AND WARSAW TREATIES, AND AGAIN ON NOVEMBER 8, 1974, ON A MEASURE RELATED TO HOUSING LEGISLATION. STOBBE CLAIMED THAT THERE WAS AGREEMENT IN THE BUNDESRAT ON THE RIGHT OF BERLINERS TO VOTE ON WHAT HE TERMED PROCEDURAL QUESTIONS OF THIS NATURE. THE BUNDESRAT PRESIDENT TERMINATED DISCUSSION BY STATING THAT HE HAD INVITED THE PRESIDUM FOR A DISCUSSION OF THE ISSUE ON JUNE 20.

3. IN RESPONDING TO THE ALLIED REQUEST FOR INFORMATION, LUECKING PREFACED HIS JULY 31 REMARKS BY OBSERVING THAT FONOFF INQUIRIES OF THE APPROPRIATE AUTHORITIES HAD SHOWN THERE WERE NO PROBLEMS, AND ALSO THAT THE SOVIETS HAD NEVER COMPLAINED ABOUT THE PRESENT PRACTICES, INCLUDING THE WIDELY-PUBLICIZED JULY 11 BUNDESRAT CONSIDERATION OF THE BAVARIAN CSCE RESOLUTION, CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 12633 01 OF 03 051846Z

DISCUSSED REFTEL. (THE FRENCH REP OBSERVED THAT SOVIET SILENCE MIGHT BE DUE TO THE FACT THAT THE CSCE VOTE PRODUCED THE RIGHT RESULT FROM THE SOVIET STANDPOINT.)

4. IN BRIEF, LUECKING'S EXPLANATION WAS AS FOLLOWS:

A. THE DISCUSSION IN THE BUNDESRAT DOES NOT CONCERN THE "CLASSICAL QUESTION" OF VOTING RIGHTS

FOR BERLINERS BECAUSE THE BUNDESRAT PRESIDUM IS
CURRENTLY PONDERING HOW TO LIMIT--NOT EXPAND--
CURRENT VOTING RIGHTS OF BERLIN MEMBERS OF THE
BUNDESRAT.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BONN 12633 02 OF 03 051847Z

53

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 SAJ-01 IO-10 /074 W

----- 087201

R 051830Z AUG 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 1934

INFO USMISSION USBERLIN

AMEMBASSY BERLIN

AMEMBASSY PARIS

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 03 BONN 12633

B. BERLIN MEMBERS MAY VOTE ON BUNDESRAT
RESOLUTIONS BECAUSE SUCH RESOLUTIONS HAVE NO LEGAL
EFFECT AND ARE NOT PART OF THE LEGISLATIVE
PROCESS AT WHICH THE 1949 ALLIED RESERVATION WAS
DIRECTED.

C. BERLIN VOTING ON SUCH RESOLUTIONS IS CONSISTENT
WITH PREVIOUS PRACTICE, THE VALIDITY OF WHICH HAS
ONLY BEEN CAST INTO DOUBT IN RECENT YEARS WHEN
THE MAJORITY IN THE BUNDESRAT HAS BECOME A
POLITICAL FACTOR.

D. ALTHOUGH IT IS CLEAR THAT VOTES ON PROCEDURAL ISSUES (E.G., A MOTION TO STRIKE AN ITEM FROM THE AGENDA OR A MOTION TO ADJOURN) CAN HAVE SUBSTANTIVE IMPORTANCE, IT IS IN ACCORDANCE WITH ESTABLISHED PRACTICE FOR BERLINERS TO VOTE ON CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 12633 02 OF 03 051847Z

SUCH ISSUES.

E. USE OF BUNDESRAT RESOLUTIONS SOMETIMES PRODUCES "BIFURCATED LEGISLATION." A BILL MAY BE ENACTED INTO LAW, WITHOUT THE PARTICIPATION OF BERLINERS, FOLLOWING WHICH THE BUNDESRAT MAY ADOPT A RESOLUTION WITH BERLIN PARTICIPATION STATING THAT THE BUNDESRAT CONSIDERS THAT THE LAW SHOULD NOT HAVE BEEN ENACTED. WHILE SUCH RESOLUTIONS HAVE NO LEGAL EFFECT, THEIR ABSURDITY IS OBVIOUS. A PRIMARY PURPOSE OF THE CURRENT DISCUSSIONS IN THE PRESIDUM IS TO FIND MEANS OF LIMITING THE USE OF SUCH RESOLUTIONS AND OTHER PROCEDURAL DEVICES FOR AFFECTING, OR SEEMING TO AFFECT LEGISLATION IN ORDER TO AVOID PROBLEMS WITH THE SOVIETS RE THE VOTING RIGHTS OF BERLIN BUNDESRAT MEMBERS. ONE PROPOSAL UNDER CONSIDERATION IS THAT BERLIN BUNDESRAT MEMBERS ONLY BE ALLOWED TO VOTE ON AN AGENDA THREE TIMES; A FOURTH VOTE WOULD BE TAKEN WITHOUT THEIR VOTES BEING COUNTED.

F. THE JULY 11 CSCE VOTE WAS NOT ON THE SUBSTANCE OF THE BAVARIAN RESOLUTION BUT ON A MOTION TO STRIKE THE RESOLUTION FROM THE AGENDA. (WITH BERLIN PARTICIPATION, THE MOTION WAS CARRIED.)

5. ASKED AFTER HIS PRESENTATION WHETHER THERE WAS ANY FURTHER BACKGROUND AVAILABLE ON HOW THE SITUATION HAD EVOLVED FROM THE 1949 ALLIED RESERVATION TO THE PRESENT, LUECKING INSISTED THAT THE PROCEDURES DESCRIBED ABOVE HAVE BEEN FOLLOWED "FROM THE VERY BEGINNING."

6. LUECKING FURTHER REPORTED TO BONN GROUP ON AUGUST 4 THAT HE HAD BEEN VISITED AT FONOFF AUGUST 1 BY SOVIET EMBASSY COUNSELOR KOPELTSEV AND FIRST SECRETARY SAFRONTSCHUK. AFTER KOPELTSEV HAD RAISED A QUESTION CONCERNING PENDING POLICE LEGISLATION HE PROFESSED TO HAVE NOTHING MORE TO SAY, THEN ASKED WHETHER CONFIDENTIAL

CONFIDENTIAL

PAGE 03 BONN 12633 02 OF 03 051847Z

SAFRONTSCHUK HAD ANY QUESTIONS. LATTER SAID IN LOW
KEY THAT HE WOULD BE INTERESTED IN HEARING ABOUT WHAT
WENT ON IN THE BUNDESRAT JULY 11. ASKED BY LUECKING
WHETHER HE WOULD HAVE PREFERRED A DIFFERENT RESULT,

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BONN 12633 03 OF 03 051849Z

53

ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 SAJ-01 IO-10 /074 W
----- 087245

R 051830Z AUG 75

FM AMEMBASSY BONN
TO SECSTATE WASHDC 1935
INFO USMISSION USBERLIN
AMEMBASSY BERLIN
AMEMBASSY PARIS
AMEMBASSY LONDON
AMEMBASSY MOSCOW
USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 03 OF 03 BONN 12633

SAFRONTSCHUK SAID HE WAS ONLY ASKING ABOUT THE
PRINCIPLE INVOLVED. LUECKING THEN REPEATED THE
ESSENCE OF THE BRIEFING HE HAD GIVEN THE ALLIED REPS
IN THE BONN GROUP THE PREVIOUS DAY, ASSURING THE
SOVIETS THERE HAD BEEN NO CHANGES IN LONG-STANDING
PROCEDURES IN THE BUNDESRAT. AFTER REPORTING THIS
CONVERSATION, LUECKING SAID HE THOUGHT THE SOVIETS WERE

SATISFIED AND THAT HE HAD GOTTEN THE IMPRESSION THEY
WOULD NOT RE-OPEN THE QUESTION.

7. COMMENT: WE SHARE RESERVATIONS EXPRESSED BY USBER
IN PARA 3 REFTTEL ABOUT PROPRIETY OF CURRENT
PROCEDURES (ALTHOUGH ON THE BASIS OF LUECKING'S
EXPLANATION IT WOULD APPEAR THAT, STRICTLY SPEAKING,
THE JULY 11 VOTE MET THE CRITERION MENTIONED BY USBER
OF VOTING ONLY ON A PROCEDURAL MOTION, RATHER THAN ON
THE SUBSTANCE OF THE CSCE RESOLUTION). DESPITE FONOFF
ASSURANCE THAT PRESENT PRACTICES ARE LONG-ESTABLISHED,
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 12633 03 OF 03 051849Z

IT SEEMS CLEAR THAT THERE IS IN FACT CONFUSION ON THE
FRG SIDE AS TO THE PRECISE PARAMETERS OF BERLINERS'
VOTING RIGHTS, BOTH FROM STOBBE'S MAY 30
INTERVENTION AND FROM THE FRG RESPONSE TO A QUESTION IN
THE BONN GROUP AFTER THE JULY 31 BRIEFING AS TO WHETHER
THE BERLIN VOTES WOULD HAVE BEEN COUNTED IF THE CSCE
RESOLUTION HAD ACTUALLY COME TO A VOTE ON THE FLOOR.
LUECKING RESPONDED WITH A QUICK AND EMPHATIC "NO"
WHILE FRG LEGAL ADVISER (DUISBERG) SAID, "I'M NOT SO
SURE." ALLIED REPS IN BONN GROUP HAVE ASKED FRG TO
KEEP US INFORMED ON THE PROGRESS OF DISCUSSIONS IN THE
BUNDESRAT PRESIDUM, AND WE WILL PROBABLY WISH TO REVIEW
THE MATTER TRIPARTITELY THEREAFTER. ANY REFERENCES BY
USBER OR THE
DEPARTMENT TO PRIOR STUDIES THAT INTERPRET THE MEANING
OF THE 1949 RESERVATION ON PARTICIPATION OF BERLINERS
IN THE PARLIAMENT WOULD BE HELPFUL.
HILLENBRAND

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: SUFFRAGE, CENTRAL LEGISLATURE
Control Number: n/a
Copy: SINGLE
Draft Date: 05 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: RowellE0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BONN12633
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750270-0320
From: BONN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750879/aaaacrnn.tel
Line Count: 312
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 USBERLIN 1451
Review Action: RELEASED, APPROVED
Review Authority: RowellE0
Review Comment: n/a
Review Content Flags:
Review Date: 18 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 APR 2003 by CunninFX>; APPROVED <02 OCT 2003 by RowellE0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: VOTING RIGHTS OF BERLIN BUNDESRAT MEMBERS
TAGS: PFOR, PGOV, GE, WB, US, FR, UK, BUNDESRAT
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006